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Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:FIP:B04

PLR-128290-09

Date:

November 05, 2009

Taxpayer

Country

Date 1

Date 2

Date 3

Date 4

Year 1

Year 2

Year 3

Disaster

Tax Professional

Dear _____ :

This is in response to your request dated April 15, 2009 filed by Successor in Interest on behalf of Taxpayer, for a ruling granting an extension of time for making an election under section 831(b) of the Internal Revenue Code. The request is made in accordance with and seeks relief pursuant to section 301.9100-3 of the Procedure and Administration Regulations.

FACTS

Taxpayer represents as follows: that until Date 1, Year 2 it was a corporation chartered in Country that qualified as an insurance company other than a life insurance company for federal income tax purposes, having made the election provided by section 953(d) of the Internal Revenue Code. Further, until Year 1, it was exempt from federal income tax pursuant to section 501(c)(15). Prior to Year 1, Taxpayer timely filed a Form 990, Return of Organization Exempt From Income Tax.

For Year 1, Taxpayer was granted an extension until Date 2, Year 2 to file its Year 1 Form 990. Because of Disaster, the extension was extended until Date 3, Year 3.

Prior to Date 2, Year 2, Taxpayer provided its Year 1 financial information to its business administrator for purposes of coordinating with Tax Professional to prepare Taxpayer's Year 1 return. In reviewing this information, it was apparent to Tax Professional that Taxpayer did not satisfy the parameters of section 501(c)(15). Hence, Taxpayer was subject to tax under section 831(a) and needed to file a Form 1120-PC, U.S. Property and Casualty Insurance Company Income Tax Return. Taxpayer appeared to qualify to elect to be taxed under the alternative tax provided by section 831(b). This election is to be made by the due date (including granted extensions) of the tax return for the first taxable year for which the election is effective.

On or about Date 4, Year 3, Taxpayer filed a Form 1120-PC for Year 1; on this Form 1120-PC Taxpayer elected to be taxed under the alternative tax provided by section 831(b). At approximately the same time Taxpayer submitted this request.

Taxpayer further represents that granting relief would not result in a lower tax liability than the Taxpayer would have had if the election were made timely.

LAW AND ANALYSIS

Generally, insurance companies other than life insurance companies are taxable under section 831(a). However, an eligible company may pay an alternative tax provided in section 831(b) based on its taxable income investment income if it so elects. Section 831(b)(2)(A)(ii). That election is made on a timely filed return, section 301.9100-8(a)(2), and is a regulatory election, section 301-9100-1(b).

Under section 301.9100-1(c), the Commissioner may grant a reasonable extension of time under the rules set forth in sections 301.9100-2 and 301.9100-3 to make a regulatory election or a statutory election (but not more than 6 months except in the case of a taxpayer who is abroad), under all the subtitles of the Code except subtitles E, G, H, and I. Section 831(b) is part of subtitle A.

Section 301.9100-2 provides an automatic extension of time for making certain elections and is inapplicable here.

Section 301.9100-3(a) provides, in pertinent part, that requests for extensions of time for regulatory elections that do not meet the requirements of section 301.9100-2 must be made under the rules of section 301.9100-3. Requests for relief subject to section 301.9100-3 will be granted when the taxpayer provides the evidence to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interest of the Government.

A taxpayer is deemed to have acted reasonably and in good faith under section 301.9100-3(b)(1) if the taxpayer: (1) requests relief under this section before the failure to make the regulatory election is discovered by the Internal Revenue Service; (2) failed to make the election because of intervening events beyond the taxpayer's control; (3) failed to make the election because, after exercising reasonable diligence (taking into account the taxpayer's experience and the complexity of the return or issue), the taxpayer was unaware of the necessity for the election; (4) reasonably relied upon the written advice of the Internal Revenue Service; or (5) reasonably relied on a qualified tax professional, including a tax professional employed by the taxpayer, and the tax professional failed to make, or advise the taxpayer to make, the election.

Section 301.9100-3(c)(1) provides, in pertinent part, that the Commissioner will grant a reasonable extension of time to make a regulatory election only when the interests of the Government will not be prejudiced by granting the relief.

Based solely upon the representations made, we conclude that the Commissioner should grant Taxpayer an extension of 6 months to make the election allowed by section 831(b).

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter; no opinion is expressed whether Taxpayer otherwise meets the requirements of section 831(b) and whether any additions to tax, interest, or other penalties apply to Taxpayer's Year 1 tax.

This letter is based upon information and representations submitted by Taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the material so submitted and it is subject to verification on examination.

This ruling is directed only to Taxpayer. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent. In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

/S/

John E. Glover
Assistant to Branch Chief, Branch 4
(Financial Institutions & Products)

cc: